

**REMARKS**

Per the Examiner's direction provided during the July 29, 2004 teleconference with the undersigned, Applicant submits the following remarks in response to the Office Action of July 6, 2004, which failed to consider Applicants timely filed preliminary amendment and second Information Disclosure Statement ("the second IDS").

Applicant filed the currently pending patent application on November 12, 2003 as a continuation of U.S. Patent Application 09/999,654, which was filed October 31, 2001 and issued into U.S. Patent 6,692,007 on February 17, 2004. A first Information Disclosure Statement ("the first IDS") comprising fourteen PTO/SB/08A forms was also filed on November 12, 2003 with the currently pending application.

On December 9, 2003, Applicant filed a preliminary amendment that canceled claim 1 (i.e., the only claim originally filed with the currently pending application) and added new claims 2-65. The USPTO date stamped the return receipt post card sent with the preliminary amendment as being received at the USPTO December 15, 2003 (please see the enclosed photocopy of said post card). A check on the PAIR system at the USPTO website reveals that the preliminary amendment was logged-in and available to the Examiner on December 15, 2003.

On February 10, 2004, Applicant filed the second IDS, which comprised one PTO/SB/08A form. The USPTO date stamped the return receipt post card sent with the second IDS as being received at the USPTO February 13, 2004 (please see the enclosed photocopy of said post card). A check on the PAIR system at the USPTO website reveals that the second IDS was logged-in and available to the Examiner on February 13, 2004.

Upon receiving the Office Action of July 6, 2004, Applicant noticed that the Office Action only considered claim 1, which had been previously canceled by the timely filed preliminary amendment. The Office Action failed to consider: (1) the new claims 2-65 added by preliminary amendment; and (2) the references contained in the timely filed second IDS.

On the morning of July 19, 2004, Applicant left a voice message on the Examiner's telephone system regarding the failure to consider the preliminary amendment and the second IDS. On July 29, 2004, the Examiner responded to a second message left earlier in the day on

the Examiner's telephone system. In the undersigned's telephone conversation with the Examiner, the Examiner indicated that the preliminary amendment and second IDS were available as indicated on the PAIR system and as discussed above. The Examiner instructed the undersigned to respond to the Office Action of July 6, 2004 by explaining that the preliminary amendment and second IDS were timely, available and should have been considered. The Examiner indicated that he would consider the preliminary amendment and the second IDS and issue a new first Office Action.

In light of the above discussion, Applicant respectfully requests that the Office Action of July 6, 2004 be withdrawn and that the timely filed preliminary amendment and second IDS be considered. Applicant gratefully thanks the Examiner for his assistance in this matter.

Respectfully submitted,

DORSEY & WHITNEY LLP  
**Customer Number 25763**

Date: 8-27-04

By: S. Wade Johnson

S. Wade Johnson  
Reg. No. 50,873  
Intellectual Property Department  
Suite 1500  
50 South Sixth Street  
Minneapolis, MN 55402-1498  
(612) 340-8835